



PORT ST. LUCIE
UTILITY SYSTEMS DEPARTMENT
 1001 SE Prineville St
 Port St. Lucie, FL 34983
 (772) 873-6400
 utility.cityofpsl.com

Kevin R. Matyjaszek, Director

April 05, 2023

To: City Purchasing Agent
Procurement Management


Requesting for the approval for the City of Port St. Lucie Utility Systems Department to authorize GRAY MATTER SYSTEMS LLC to provide the annual renewal of Tenable.ot (Operation Technology) and Tenable.sc (Security Center) Licensing (4/14/2023 to 4/13/2024).

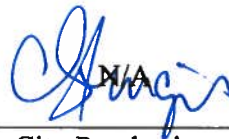
Tenable is the software that provides Cybersecurity support for the SCADA network providing asset management, vulnerability scanning, change management, policy control and forensic support.

**Quote Number: 00010313 4/4/2023

VENDOR: GRAY MATTER SYSTEMS LLC
 ADDRESS: 100 Global View Drive Suite 200, Warrendale PA 15086
 TELEPHONE: (412) 202-5053
 EMAIL: scate@graymattersystems.com

ESTIMATED EXPENDITURE: \$24,360.00

APPROVAL:  2023.04.06
Utility Director 10:52:27 -04'00' DATE: 4/6/2023
 Utility Systems Director

APPROVAL:  N/A DATE: 7/19/23
 City Purchasing Agent

APPROVAL: N/A DATE: _____
 City Manager



**AGREEMENT BETWEEN THE
CITY OF PORT ST. LUCIE, FLORIDA
AND
GRAY MATTER SYSTEMS, LLC
FOR
GENERAL PROFESSIONAL SERVICES FOR WATER
FACILITY INSTRUMENTATION AND CONTROL SYSTEMS
AND LOW/MEDIUM DUTY ELECTRICAL
(PIGGYBACK AGREEMENT)**

THIS SERVICES AGREEMENT (“Agreement”) is made and entered into as of the date last entered below by and between the **CITY OF PORT ST. LUCIE**, a Florida municipal corporation, whose mailing address is 121 SW Port St. Lucie Blvd., Port St. Lucie, FL 34896 (“City” or “Purchaser”) and **GRAY MATTER SYSTEMS, LLC**, a foreign limited liability company, whose mailing address is 100 Global View Drive, Suite 200, Warrendale, PA 15086 (“Contractor”). City and Contractor may be referred to herein individually as a “party” or collectively as the “parties.”

RECITALS

WHEREAS, the City requires goods and services of Contractor pursuant to RFP/Contract ICESOQ2021 for General Professional Services for Water Facility Instrumentation and Control Systems and Low/Medium Duty Electrical, dated December 1, 2021, agreement between Peace River Manasota Regional Water Supply Authority and Gray Matter Systems, LLC for Goods and Services, including its amendments and addenda (collectively referred to as “Contract Documents” or the “Contract”) attached hereto as Exhibit A; and

WHEREAS, the parties wish to incorporate the terms and conditions of the Contract Documents between the Contractor, its predecessors and/or assignors, and Peace River Manasota Regional Water Supply Authority, including any and all contract renewals, amendments, and change orders, substituting the “City of Port St. Lucie” for “Peace River Manasota Regional Water Supply Authority” in all places; and

WHEREAS, the City of Port St. Lucie has the authority to enter into this Agreement with Contractor pursuant to an email from Peace River Manasota Regional Water Supply Authority, dated April 14, 2023 attached hereto as Exhibit B; and

WHEREAS, the City has determined that the original procurement was lawful, the Contractor, its predecessors and/or assignors, acted at all times in accordance with Florida law when bidding and the competitive procurement method used by Peace River Manasota Regional Water Supply Authority is consistent with the purchasing policies and requirements of the City,

NOW THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, the parties agree to modify and supplement the Contract Documents with the following terms and conditions:

Section 1. Whereas. The “whereas” clauses are hereby incorporated herein as forming the intent, purpose, and scope of this Agreement.

Section 2. Terms. The parties agree that pursuant to correspondence from lead agency, Peace River Manasota Regional Supply Authority, dated April 14, 2023, the City is authorized to utilize the Contract via piggyback agreement, as follows:

- A. **Incorporation of the Contract.** Except as otherwise set forth in this Agreement, the parties hereby incorporate into this Agreement the terms and conditions of the Contract between the Contractor, its predecessors, successors and/or assignees, and Peace River Manasota Regional Supply Authority, including any contract renewals, amendments, and change orders.
- B. **Substitution.** Except where the context requires otherwise, such as, but not limited to, compliance with City ordinances and regulations, City shall be deemed substituted for Peace River Manasota Regional Supply Authority Buyer, and/or Customer regarding any and all provisions of the Contract, including by example, but not limitation, with regard to bond requirements, insurance, indemnification, licensing, termination, default, and ownership of documents. All recitals, covenants, representations, and warranties of Contractor made in the Contract are restated as if set forth fully herein, made for the benefit of City, and incorporated herein.
- C. **Term.** This Agreement shall be effective from the date upon which all parties have executed it through November 30, 2026. Additionally, City will have two (2) consecutive options to extend this Agreement for one (1) year each upon mutual written agreement by both parties.
- D. **Work Orders.** Unless otherwise specified, the City and Consultant shall develop a Scope of Services that will include the project objective, project tasks, deliverables, staffing, performance schedule and estimated costs required to complete the Work Order. Consultant shall proceed and furnish these services upon authorization by the City. Any modification to a Work Order, including a change to the Scope of Services, must be approved in writing by the City.
- E. **Product and Pricing.** In accordance with the Contract, compensation for each Work Order approved pursuant to the City’s Procurement Policy shall be established based on the Fee Schedule(s) and tasks included in the Scope of Services.

- F. Delivery Time and Location. In accordance with the Contract, Consultant shall commence work on a Work Order upon receipt of a Notice to Proceed and shall satisfactorily complete the services in the Scope of Services for the Work Order within the established schedule.
- G. Government Appropriation. The parties acknowledge and agree that, if any purchases are made beyond City's current fiscal year (on or after October 1st), such purchases made under this Agreement are contingent upon an annual budget appropriation by the City Council.
- H. Tax Exemption. The City may be tax exempt and will share its tax-exempt certificate upon request.
- I. Conflict. In the event of conflict between the Contract and this Agreement, the terms and conditions in this Agreement shall supersede and take precedence over the Contract.
- J. Sovereign Immunity. Nothing in this Agreement, nor in the Contract, shall be deemed or otherwise interpreted as waiving City's sovereign immunity protections existing under the laws of the State of Florida, or extending or increasing the limits of liability as set forth in Section 768.28 Florida Statutes, and as may be amended from time to time.

Section 3. Notice. Notice hereunder shall be provided in writing by certified mail return receipt requested, or customarily used overnight transmission with proof of delivery, to the City Manager at the address listed above.

Section 4. Public Records. Contractor understands that City is a public entity whose records are available and open to the public for review and inspection. Contractor agrees to comply with public records laws, specifically:

- A. Keep and maintain public records required by the CITY to perform the service.
- B. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies. (See <http://dos.myflorida.com/library-archives/records-management/general-records-schedules>).
- C. Records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Contractor's records under this Agreement include but are not limited to, supplier/sub

engineer invoices and contracts, project documents, meeting notes, emails and all other documentation generated during this Agreement.

- D. Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copies within a reasonable time at a cost that does not exceed the cost provided for by law. If Contractor does not comply with the CITY's request for records, CITY shall enforce the provisions in accordance with this Agreement.
- E. Ensure that project records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to CITY.
- F. Upon completion of this Agreement, transfer, at no cost, to the CITY all public records in possession of the Contractor or keep and maintain public records required by the CITY to perform the service. If the Contractor transfers all public records to the CITY upon completion of this Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon the completion of this Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records kept electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY. **IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AND AS MAY BE AMENDED FROM TIME TO TIME, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

CITY CLERK
121 SW PORT ST. LUCIE BLVD.
PORT ST. LUCIE, FL 34984
(772) 871-5157
PRR@CITYOFPSL.COM

- G. A Contractor who fails to provide the public records to the CITY within a reasonable time may also be subject to penalties under Section 119.10, Florida Statutes.

Section 5. Scrutinized Vendors List. By entering into this Agreement with the City, Contractor certifies that it and those related entities of Contractor as defined by Florida law are not on the Scrutinized Companies that Boycott Israel List, created pursuant to § 215.4725, Florida Statutes, and as may be amended from time to time, and are not engaged in a boycott of

Israel. The City may terminate this Agreement if Contractor or any of those related entities of Contractor as defined by Florida law are found to have submitted a false certification or any of the following occur with respect to the company or a related entity: (i) it has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, or (ii) for any contract for goods or services of one million dollars or more, it has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or it is found to have been engaged in business operations in Cuba or Syria. Notwithstanding the preceding, the City reserves the right and may, in its sole discretion, on a case by case basis, permit a company on such lists or engaged in business operations in Cuba or Syria to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of one million dollars or more, or may permit a company on the Scrutinized Companies that Boycott Israel List to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of any amount, should the City determine that the conditions set forth in § 287.135(4), Florida Statutes, and as may be amended from time to time, are met.

Section 6. Law, Venue, and Wavier of Jury Trial. This Agreement is to be construed as though made in and to be performed in the State of Florida and is to be governed by the laws of Florida in all respects without reference to the laws of any other state or nation. The venue of any action taken to enforce this Contract shall be in St. Lucie County, Florida.

The parties to this Agreement hereby freely, voluntarily, and expressly, waive their respective rights to trial by jury on any issues so triable after having the opportunity to consult with an attorney.

Section 7. Insurance. The contractor shall, on a primary basis and at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverage and limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by the contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by contractor under the Contract.

The parties agree and recognize that it is not the intent of the City of Port St. Lucie that any insurance policy/coverage that it may obtain pursuant to any provision of this Agreement will provide insurance coverage to any entity, corporation, business, person, or organization, other than the City of Port St. Lucie and the City shall not be obligated to provide any insurance coverage other than for the City of Port St. Lucie or extend its immunity pursuant to Section 768.28, Florida Statutes, and as may be amended from time to time, under its self-insured program. Any provision contained herein to the contrary shall be considered void and unenforceable by any party. This provision does not apply to any obligation imposed on any other party to obtain insurance coverage for this project and/or any obligation to name the City of Port St. Lucie as an additional insured under any other insurance policy or otherwise protect the interests of the City of Port St. Lucie as specified in this Agreement.

Workers' Compensation Insurance & Employer's Liability: The contractor shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes, and as may be amended from time to time. Employers' Liability and must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, and \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement must be provided. Coverage shall apply on a primary basis. Should scope of work performed by Contractor qualify its employee for benefits under Federal Workers' Compensation Statute (for example, U.S. Longshore & Harbor Workers Act or Merchant Marine Act), proof of appropriate Federal Act coverage must be provided.

Commercial General Liability Insurance: The contractor shall agree to maintain Commercial General Liability insurance, issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

Each occurrence	\$1,000,000
Personal/advertising injury	\$1,000,000
Products/completed operations aggregate	\$2,000,000
General aggregate	\$2,000,000
Fire damage	\$100,000 any 1 fire
Medical expense	\$10,000 any 1 person

Additional Insured: An Additional Insured endorsement **must** be attached to the certificate of insurance (should be CG2026) under the General Liability policy. Coverage is to be written on an occurrence form basis and shall apply as primary and non-contributory. Defense costs are to be in addition to the limit of liability. A waiver of subrogation is to be provided in favor of the City. Coverage shall extend to independent contractors and fellow employees. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interests provision as provided under the standard ISO form separation of insurers clause.

Except as to Workers' Compensation and Employers' Liability insurance, Certificates of Insurance and policies shall clearly state that coverage required by the Agreement has been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as Additional Insured for Commercial General Liability and Business Auto Liability policies. The name for the Additional Insured endorsement issued by the insurer shall read: **"City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents shall be listed as additional insured and shall include Contract #20231046– General Professional Services for Water Facility Instrumentation and Control Systems and Low/Medium Duty Electrical."** Copies of the Additional Insured endorsements shall be attached to the Certificate of Insurance. The policies shall be specifically endorsed to provide thirty (30) days written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. Formal written notice shall be sent to City of Port St. Lucie, 121 SW Port St. Lucie Blvd., Port St. Lucie, FL 34984, Attn: Procurement. In the event that the statutory liability of the City is amended during the term of this Contract to exceed the above

limits, the **Contractor** shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City. Copies of the Additional Insured endorsement shall be attached to the Certificate of Insurance.

Business Automobile Liability Insurance: The Contractor shall agree to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned and hired automobiles. In the event the contractor does not own any automobiles, the Business Auto Liability requirement shall be amended contractor allowing contractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured. A waiver of subrogation must be provided. Coverage shall apply on a primary and non-contributory basis.

Waiver of Subrogation: By entering into this Contract, Contractor agrees to a Waiver of Subrogation for each required policy. When required by the insurer, or should a policy condition not permit an Insured to enter into a pre-loss contract to waive subrogation without an endorsement, then Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent.

Deductibles: All deductible amounts shall be paid for and be the responsibility of the contractor for any and all claims under this Contract. Where an SIR or deductible exceeds \$5,000, the City of Port St. Lucie reserves the right, but is not obligated, to review and request a copy of the bidder's most recent annual report or audited financial statement.

It shall be the responsibility of the Contractor to ensure that all independent contractor and sub contractors comply with the same insurance requirements referenced herein. It will be the responsibility of the Contractor to obtain Certificates of Insurance from all independent contractors and subcontractors listing the City as an Additional Insured without the language "when required by written contract." If Contractor, independent contractor, or subcontractor maintain higher limits than the minimums listed above, the City requires and shall be entitled to coverage for the higher limits maintained by Contractor/independent contractor/subcontractor.

The Contractor may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employers' Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employers' Liability. When required by the insurer, or when Umbrella or Excess Liability is written on Non-Follow Form, the City shall be endorsed as an "Additional Insured."

The City by and through its Risk Management Department reserves the right, but is not obligated, to review, modify, reject, or accept any required policies of insurance, including limits, coverages or endorsements, herein from time to time throughout the term of this Agreement. All insurance carriers must have an AM Best rating of at least A:VII or better. When

a self-insured retention or deductible exceeds \$5,000, The City reserves the right, but is not the obligated, to review and request a copy of bidder's most recent annual report or audited financial statement.

A failure on the part of the Contractor to execute this Agreement and/or punctually deliver the required insurance certificates and other documentation may be cause for annulment of the award.

Section 8. Audits. The Contractor shall establish and maintain a reasonable accounting system that enables the City to readily identify the Contractor's assets, expenses, costs of goods, and use of funds throughout the term of this Agreement for a period of at least seven (7) years following the date of final payment or completion of any required audit, whichever is later. Records shall include, but are not limited to, accounting records, written policies, and procedures; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; back charge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence. The Contractor shall permit the City's authorized auditor or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States, or any other authorized representative of the United States government, to access and examine, audit, excerpt, and to make copies of all books, documents, papers, electronic or optically stored and created records, or other records relating or pertaining to this Agreement kept by or under the control of the Contractor, including, but not limited to those kept by the Contractor, its employees, agents, assigns, successors, and subcontractors. Such records shall be made available to the City during normal business hours at the Contractor's office or place of business. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. If an audit discloses incorrect billings or improprieties, the City reserves the right to charge the Contractor for the cost of the audit and appropriate reimbursement. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within a reasonable amount of time (not to exceed ninety (90) days) from presentation of the City's findings to the Contractor. Evidence of criminal conduct will be turned over to the proper authorities.

The Contractor shall ensure the City has these rights with Contractor's employees, agents, assigns, successors, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Contractor and any subcontractors, to the extent that those subcontracts or agreements relate to fulfillment of the Contractor's obligations to the City.

Section 9. Merger. This Agreement and the Contract sets forth the entire agreement between Contractor and City with respect to the subject matter of this Agreement. This Agreement supersedes all prior and contemporaneous negotiations, understandings, and

agreements, written or oral, between the parties. This Agreement may not be modified except by the parties' mutual agreement set forth in writing and signed by the parties.

IN WITNESS WHEREOF, the parties are duly authorized to bind their respective entities hereto and have accepted, made, and executed this Agreement upon the terms and conditions above stated on the day and year entered below.

SIGNATURE PAGE FOLLOWS

CITY OF PORT ST. LUCIE,
A Florida municipal corporation



Caroline Sturgis
Director, Office of Management & Budget

Date: 7/19/23

CONTRACTOR
GRAY MATTER SYSTEMS, LLC
A foreign limited liability company



Name/Title
Authorized Representative Mandy Urey, CAO

Date: 07/05/2023






Gray_Matter_Systems_Piggyback_Agreement_-_CAO_Final_edits_6.26.23- for MU signature

Final Audit Report

2023-07-05

Created:	2023-07-05
By:	Lee Ann Duda - Cimperman (lduda@graymattersystems.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAITPKTJVwFIfv8bliysaNZAc4g8N9P4

"Gray_Matter_Systems_Piggyback_Agreement_-_CAO_Final_edits_6.26.23- for MU signature" History

-  Document created by Lee Ann Duda - Cimperman (lduda@graymattersystems.com)
2023-07-05 - 7:09:13 PM GMT
-  Document emailed to Mandy Urey (murey@graymattersystems.com) for signature
2023-07-05 - 7:09:17 PM GMT
-  Email viewed by Mandy Urey (murey@graymattersystems.com)
2023-07-05 - 7:10:41 PM GMT
-  Document e-signed by Mandy Urey (murey@graymattersystems.com)
Signature Date: 2023-07-05 - 7:10:53 PM GMT - Time Source: server
-  Agreement completed.
2023-07-05 - 7:10:53 PM GMT

Robyn Holder

From: Stefanie Beskovoyne
Sent: Tuesday, July 11, 2023 9:05 AM
To: Robyn Holder
Cc: Scott Meagher
Subject: Gray Matter Piggyback - Signed by Vendor (Intake 9923) - Contract 20231046
Attachments: Gray_Matter_Systems_Piggyback_Signed by Vendor.pdf

Robyn,

The attached Piggyback was signed by the vendor and is attached. Please let me know if you need anything else to process this piggyback. (Contract 20231046)

I know its probably a bit late for July 24 City Council agenda.



Stefanie Beskovoyne, Esq.
Deputy Director, Utility Legal Affairs

City of Port St. Lucie
1001 SE Prineville Street, Bldg. "A"
Port St. Lucie, Florida 34983
772-577-1254 cell | 772-873-6415 direct
SBeskovoyne@CityofPSL.com

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